

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue
Implementation and Administration of California
Renewables Portfolio Standard Program.

Rulemaking 11-05-005
(Filed May 5, 2011)

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM
NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISIONS
(D.) 11-12-020, D.11-12-052, D.12-05-035 and D.12-06-038**

Claimant: The Utility Reform Network	For contribution to Decisions 11-12-020, 11-12-052, 12-05-035 and 12-06-038
Claimed (\$): 92,029.20¹	Awarded (\$): 92,053.95
Assigned Commissioner: Mark J. Ferron	Assigned ALJs: Anne E. Simon, Regina DeAngelis, and Maryam Ebke

PART I: PROCEDURAL ISSUES

A. Brief Description of Decisions:	<p>Decision 11-12-020 sets multi-year procurement quantities required by the new Public Utilities Code § 399.15(b) pursuant to SB2(1X) (Simitian) stats, 2011 ch. 1, for all retail sellers under the Renewables Portfolio Standard (RPS) program.</p> <p>Decision 11-12-052 establishes three new portfolio content categories for RPS procurement and sets the minimum and maximum quantities of procurement allowed within each category for each compliance period.</p>
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¹ The claim filed by TURN on August 27, 2012 reflected a total claim of \$85,579.20. TURN later submitted October 12 correspondence informing the Commission that its addition was incorrect, and that the correct claim figure should be \$92,029.20.

	<p>Decision 12-05-035 adopts a new pricing mechanism (the Renewable Market Adjusting Tariff) under the Feed-in Tariff required by Pub. Util. Code § 399.20 enacted by SB 380 (Kehoe, 2008), SB 32 (Negrete McLeod, 2009) and SB2(1X).</p> <p>Decision 12-06-038 changes the rules for retail seller compliance with the RPS program based on modifications to the Public Utilities Code enacted in SB2(1X). These changes include the calculation of deficits through 2010, the treatment of contracts executed prior to June 1, 2010, banking rules, the use of contracts of less than 10 years duration, annual reporting requirements and requests for compliance waivers.</p>
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	See Comment #1	
2. Other Specified Date for NOI:	June 9, 2011	Verified
3. Date NOI Filed:	June 7, 2011	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	See Comment #2	Verified
6. Date of ALJ ruling:	See Comment #2	
7. Based on another CPUC determination (specify):	See Comment #2	Verified
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	P.10-08-016	Verified
10. Date of ALJ ruling:	November 22, 2010	Verified
11. Based on another CPUC determination (specify):		

12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-06-038	Verified
14. Date of Issuance of Final Order or Decision:	June 27, 2012	Verified
15. File date of compensation request:	August 27, 2012	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	TURN	Correct	The Order Instituting Rulemaking 11-05-005 states that any Notice of Intent to Seek Compensation “should be filed within 30 days of the date this OIR is mailed.” (page 20). The OIR was mailed on May 10, 2011. TURN filed its NOI on June 7, 2011 even though the original eligibility granted in R.08-08-009 was deemed to remain in force.
2	TURN	Correct	TURN did not receive an affirmative ruling on its Notice of Intent in this proceeding. As explained in the Commission’s Intervenor Compensation guide, “normally, an ALJ Ruling need <u>not</u> be issued unless: (a) the <i>NOI</i> has requested a finding of “significant financial hardship” under § 1802(g); (b) the <i>NOI</i> is deficient; or (c) the ALJ desires to provide guidance on specific issues of the <i>NOI</i> .” (page 12) Since none of these factors apply to the NOI submitted in this proceeding, there was no need for an ALJ ruling in response to TURN’s NOI.

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant’s description of its claimed contribution to the final decision (For each contribution, support with specific reference to final decision or record.)**

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. TARGETS / ADOPTION OF MULTI-YEAR COMPLIANCE TARGETS TURN supported the straw proposal for first compliance period targets to begin on January 1, 2011 and to average 20% of retail sales between	<u>D.11-12-020</u> The Decision agrees with TURN that the new RPS compliance period requirements commenced on January 1, 2011 (page 10) and that requirements for the 2011-2013 compliance period should be an average of 20% of retail	Correct Correct

<p>2011-2013. TURN opposed proposals by some retail sellers to delay the onset of initial obligations until a later date. TURN agreed with the use of a linear or “straight-line” trend for satisfying the “reasonable progress” requirement for the 2014-2016 and 2017-2020 compliance periods and identified serious deficiencies with alternative (and weaker) proposals made by the Investor-Owned Utilities and Electric Service Providers. TURN further urged the Commission not to establish any individual year targets including any targets relating to the final year of a compliance period.</p> <p><u>Opening comments of TURN and CUE on the ALJ’s ruling requesting comments on new procurement targets, August 30, 2011, pages 1-3.</u></p> <p><u>Reply comments of TURN and CUE on the ALJ’s ruling requesting comments on new procurement targets, September 12, 2011, pages 1-6.</u></p> <p><u>Opening comments of TURN and CUE on the Proposed Decision of ALJ Simon, November 17, 2011.</u></p>	<p>sales during the entire period (page 11). The Decision agrees with TURN that the “reasonable progress” requirement is satisfied through the adoption of the “straight-line trend” approach contained in the straw proposal, rejects proposals to require retail sellers to satisfy any individual year target of any compliance period (page 17), and rejects alternative weaker target proposals made by the utilities and Electric Service Providers (pages 14-15).</p>	<p>Correct</p> <p>Correct</p>
<p>2. PRODUCT DEFINITIONS / RULES FOR CATEGORY 1 RESOURCES</p> <p>TURN argued that the term “California Balancing Authority” refers to Balancing Authorities operated by the California ISO, Los Angeles Department of Water and Power, the Turlock Irrigation District, the Imperial Irrigation District and the Balancing Authority of Northern California. TURN urged the Commission to</p>	<p><u>D.11-12-052</u></p> <p>The Decision agrees with TURN that the term “California Balancing Authority” refers to any balancing authority where more than 50% of the load is located within California and that this definition specifically includes the balancing authorities mentioned in the RPS matrix attached to TURN’s comments. (page 20)</p>	<p>Correct</p> <p>Correct</p>

<p>exclude other Balancing Authorities that primarily serve load in other states.</p> <p><u>Opening comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 8, 2011, page 2.</u></p> <p>TURN argued that any transaction meeting the criteria of § 399.16(b)(1)(A) that involves an import into a California Balancing Authority may not substitute electricity from any other generating source (including other renewable generation), must schedule power from the generator into a CBA on an hour or subhourly basis, and that any procured ancillary services must be netted against the actual import before determining the fraction that counts for RPS compliance. TURN argued that PG&E's proposal to allow a monthly true-up period (rather than an hourly true-up) violates SB2(1X) and was expressly prohibited by the Legislature.</p> <p><u>Opening comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 8, 2011, pages 2-4.</u></p> <p><u>Reply comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 19, 2011, pages 1-3.</u></p> <p><u>Reply comments of TURN and CUE on the Proposed Decision of ALJ Simon Implementing New Portfolio Content Categories for the Renewables</u></p>	<p>The Decision agrees with TURN that any resource scheduling electricity into a California Balancing Authority pursuant to the criteria of § 399.16(b)(1)(A) may not substitute electricity from any other generation unit, including another RPS-eligible generating facility. (page 24.)</p> <p>The Decision agrees with TURN that, for any resource scheduling electricity into a California Balancing Authority pursuant to the criteria of § 399.16(b)(1)(A), only "the fraction of the schedule generated by the RPS-eligible generator with which the retail seller has a procurement contract is what counts for RPS compliance." (page 25.)</p> <p>The Decision agrees with TURN and rejects PG&E's proposal to satisfy the import and scheduling requirement using monthly aggregation rather than individual hourly schedules, stating that "it is not consistent with the statute nor with this Commission's responsibilities under the RPS program to substitute a time period more than 700 times longer than the statutory criterion when determining compliance with this portfolio content category." (page 39.)</p>	<p>Correct</p> <p>Correct (but on page 22)</p> <p>Correct</p>
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<u>Portfolio Standard Program,</u> <u>November 1, 2011, page 5.</u>		
<p>5. PRODUCT DEFINITIONS / BIOMETHANE</p> <p>TURN urged the Commission to reject the proposal by Clean Energy Renewable Fuels to classify pipeline biomethane transactions as satisfying the portfolio content criteria of § 399.16(b)(1). TURN noted that the California Energy Commission has not yet reached any determinations on the eligibility of these transactions under the new RPS program rules.</p> <p>TURN urged the Commission to modify the Proposed Decision of ALJ Simon and classify pipeline biomethane as a category 3 transaction pursuant to § 399.16(b)(3). TURN warned that, absent this treatment, a significant portion of future RPS program needs could be displaced with these transactions.</p> <p><u>Reply comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 19, 2011, pages 12-14.</u></p> <p><u>Opening comments of TURN on the Proposed Decision of ALJ Simon Implementing New Portfolio Content Categories for the Renewables Portfolio Standard Program, October 27, 2011, pages 1-4.</u></p>	<p><u>D.11-12-052</u></p> <p>Although the Proposed Decision of ALJ Simon would have classified pipeline biomethane transactions that rely on California generating units to meet the criteria of § 399.16(b)(1)(see PD, page 36), the final Commission Decision modified the PD and declines to classify generation that uses pipeline biomethane as meeting the criteria in Section 399.16(b)(1). The Decision defers further consideration of this issue until subsequent action by the California Energy Commission. Since TURN was the primary (and perhaps only) party opposing the treatment sought by Clean Energy Renewable Fuels, there is no doubt that the modifications occurred due to TURN's participation. (page 43.)</p>	<p>Correct</p>
<p>6. PRODUCT DEFINITIONS / FIRMED AND SHAPED PRODUCTS</p>	<p><u>D.11-12-052</u></p>	

<p>TURN urged the Commission to reject proposals made by some parties to defer to the existing California Energy Commission (CEC) guidelines for determining the criteria for “firmed and shaped” transactions. TURN pointed out that existing CEC rules allow transactions to count as “firmed and shaped” despite simply matching (or tagging) unbundled RECs with existing unrelated energy imports.</p>	<p>The Decision agrees with TURN that the existing CEC definition of “firmed and shaped” cannot be used to meet the new statutory requirements because “SB 2 (1X) provides both more precise requirements in new § 399.16(b) and stricter usage limitations in new § 399.16(c) than those used in the implementation of SB 107. It is reasonable to interpret this more prescriptive statutory scope as narrowing the range of transactions that would meet the criteria of § 399.16(b)(2).” (page 45.) Specifically, the Decision agrees with TURN and rejects proposals to allow transactions that satisfied the “tagging” requirement previously adopted by the CEC. (page 48.)</p>	<p>Correct</p>
<p>TURN argued that a firmed and shaped product eligible under § 399.16(b)(2) should meet several conditions including a minimum duration of 5 years for the procurement of substitute energy, the importation of substitute energy within the same calendar year, the provision of substitute energy from within the same WECC subregion as the renewable generator, and reliance on fixed energy prices.</p>	<p>Although the Decision does not adopt TURN’s proposal that substitute electricity must be provided by generation from the same WECC subregion as the RPS-eligible generator, the Decision states that “this proposal seeks to control the complexity of firmed and shaped transactions, as well as to incorporate an intuitively appealing proximity between the source of the RPS-eligible generation and the source of the substitute energy. While this proposal is interesting, its implications are not clear enough at this stage of this proceeding for the Commission to adopt it.” (page 46.)</p>	<p>Correct</p>
<p>TURN urged the Commission to reject the position of the IOUs that “incremental electricity” means any transaction executed after June 1, 2010. TURN pointed out that there is no rational basis for using this date and the “IOUs neither cite any legislative history in support of their position nor offer a compelling rationale for this outcome.” (TURN reply comments, August 19th, page 5.) Instead, TURN proposed that “incremental electricity” be new to the utility portfolio at the time the contract is executed.</p>	<p>The Decision adopts the proposal submitted by TURN, DRA and UCS that contracts for substitute energy associated with § 399.16(b)(2) products “either be at least five years in</p>	<p>Correct</p>

<p><u>Opening comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 8, 2011, pages 6-8.</u></p> <p><u>Reply comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 19, 2011, pages 3-7.</u></p> <p><u>Opening comments of TURN on the Proposed Decision of ALJ Simon Implementing New Portfolio Content Categories for the Renewables Portfolio Standard Program, October 27, 2011, pages 4-6.</u></p> <p><u>Reply comments of TURN and CUE on the Proposed Decision of ALJ Simon Implementing New Portfolio Content Categories for the Renewables Portfolio Standard Program, November 1, 2011, page 5.</u></p>	<p>duration, or as long as the contract for RPS-eligible energy, whichever is shorter.” (page 50.)</p> <p>The Decision agrees with TURN and rejects the utility positions on the definition of “incremental electricity.” Specifically, the Decision concludes that “The absence of any textual connection between the phrase “incremental electricity” and the June 1, 2010 date renders the utilities’ proposed reading unconvincing.” (page 48.)</p>	Correct
<p>7. PRODUCT DEFINITIONS / GRANDFATHERING DATE FOR ELECTRIC SERVICE PROVIDERS</p> <p>TURN argued against proposals by the Electric Service Providers (ESPs) to grandfather any contract executed prior to January 13, 2011. TURN argued that the June 1, 2010 date was binding and “there is nothing in the statutory language suggesting that the Commission should adopt different rules for ESPs or defer to the grandfathering provisions of D.11-01-025, and no basis for the Commission selectively enforcing a requirement that applies to all retail sellers.”</p>	<p><u>D.11-12-052</u></p> <p>The Decision agrees with TURN and rejects the proposal by AREM to allow any contract executed by an Electric Service Provider prior to January 13, 2011 to be grandfathered and not subject to the portfolio content classifications. The Decision agrees that the June 1, 2010 date applies to all retail sellers. (pages 60-62.)</p>	Correct

<p><u>Reply comments of TURN on the Implementation of New Portfolio Content Categories for the RPS program, August 19, 2011, pages 11-12.</u></p>		
<p>8. COMPLIANCE / CONCERNS ABOUT GAMING OF THE 20% PROGRAM CLOSING REPORT</p>		
<p>TURN expressed serious concerns about the potential for retail sellers to delay the retirement of RECs associated with pre-2011 procurement, take advantage of the 14% safe harbor and apply those RECs to the 2011-2013 compliance period. TURN highlighted a scenario in which substantial amounts of procurement for 2008-2010 could be shifted into 2011 simply by delaying the retirement of the associated RECs until the end of their 36-month life. TURN urged the Commission to prevent any such manipulation of the closing reports.</p>	<p><u>D.12-06-038</u></p>	<p>Correct</p>
<p><u>Opening comments of TURN and CUE on the Proposed Decision of ALJ Simon Setting Compliance Rules for the RPS program, May 14, 2012, pages 5-7.</u></p>	<p>In response to concerns raised by TURN about potential gaming of the 20% closing reports, the final Decision modifies the Proposed Decision (see page 85) by including additional language clarifying that “each retail seller must retire for RPS compliance in the Western Renewable Energy Generation Information System (WREGIS) all RECs associated with RPS-eligible generation prior to 2011 and available for RPS compliance years 2008, 2009, and 2010, up to the full amount of its APT obligation in each year.”(page 17.) The Decision acknowledges TURN’s concern by explaining that “without the retirement for RPS compliance of all available RECs up to the APT amount, some retail sellers could in effect create a quasi-deferral process, by which they maintain the future compliance value of RECs not currently committed to RPS compliance under the prior program. But, because the closing report process requires the present determination of all prior APT deficits, such a quasi-deferral should not be permitted.” (page 17.)</p>	<p>Correct</p>
		<p>Correct</p>

<p>10. COMPLIANCE / LONG-TERM CONTRACTING REQUIREMENT</p> <p>TURN argued that the long-term contracting requirement in § 399.13(b) should be modified from an annual to a multi-year obligation to reflect the switch to multi-year compliance targets under the 33% RPS program. TURN explained that the requirement should “comprise a percentage of the total compliance obligation for the entire multi-year period rather than based on retail sales in a given year.”</p> <p><u>Opening comments of TURN and CUE on the ALJ’s ruling requesting comments on new procurement targets, August 30, 2011, page 6.</u></p>	<p><u>D.12-06-038</u></p> <p>The Decision agrees with TURN and notes that applying the long-term contracting requirement to total procurement over the entire multi-year compliance period, rather than each individual year “is sensible and consistent with both the new and prior statutory compliance frameworks, and is adopted.” (page 38, see also footnote 55.)</p>	<p>Correct</p>
<p>11. COMPLIANCE / CONSEQUENCES OF FAILING TO MEET PORTFOLIO CONTENT REQUIREMENTS</p> <p>TURN argued that the portfolio content limitations in § 399.16(c) represent an independent compliance obligation that cannot be satisfied merely through a demonstration that total procurement quantities are sufficient to meet the targets established pursuant to § 399.15(b). For purposes of enforcing this obligation, TURN recommended that any retail seller failing to procure sufficient quantities pursuant to § 399.16(c) should only receive credit for total procurement quantities under § 399.15(b) that are consistent with the amounts procured pursuant to § 399.16(c).</p>	<p><u>D.12-06-038</u></p> <p>Although the Decision does not adopt the specific enforcement mechanism proposed by TURN, it does agree with TURN that the compliance obligations in § 399.16 are independent and that “a shortfall in meeting the portfolio balance requirement for procurement meeting the criteria of Section 399.16(b)(1) is a failure to comply with an RPS compliance obligation, subject to enforcement action, but that such a shortfall should be determined independent of any failure to meet the procurement quantity requirement set by D.11-02-020.” (page 58.)</p>	<p>Correct</p>

<p><u>Opening Comments of TURN on the Administrative Law Judge's Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements on the RPS Program, February 10, 2012, pages 5-6.</u></p> <p><u>Reply Comments of TURN on the Administrative Law Judge's Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements on the RPS Program, February 21, 2012, pages 1-4.</u></p>		
<p>12. COMPLIANCE / LIMITS ON BANKING EXCESS PROCUREMENT</p> <p>TURN urged the Commission to reject two proposals by PG&E relating to the banking of excess procurement of category 2 and 3 products. First, TURN opposed PG&E's proposal to allow a retail seller to apply any procurement in excess of the limits for Category 2 and 3 products to a future compliance period. TURN argued that PG&E's proposal would violate the statutory prohibition on banking excess procurement of short-term contracts and Category 3 products. Second, TURN argued that PG&E should not be allowed to credit procurement in excess of the applicable category limitation towards the overall compliance period target because this approach violates the statutory prohibition.</p> <p><u>Reply Comments of TURN on the Administrative Law Judge's Ruling Requesting Supplemental Comments</u></p>	<p><u>D.12-06-038</u></p> <p>The Decision agrees with TURN and rejects both proposals submitted by PG&E. With respect to the first proposal, the Decision notes TURN's opposition and concludes that "PG&E's proposal is not consistent with the statutory language.... This proposal simply reads out of the statute the direction that "in no event" should procurement meeting the criteria of Section 399.16(b)(3) be counted as excess." (pages 63-64.)</p> <p>With respect to the second proposal, the Decision explains that "TURN opposes PG&E's proposal, asserting that the result would be to circumvent the portfolio balance requirements in the initial compliance period. TURN correctly identifies the effect of the PG&E proposal, and we decline to adopt it." (page 67.)</p>	<p>Correct</p> <p>Correct</p>

<u>on Reporting and Compliance Requirements on the RPS Program, February 21, 2012, pages 2-3</u>		
<p>13. COMPLIANCE / ELIGIBILITY OF BEAR VALLEY ELECTRIC SYSTEM UNDER § 399.17</p> <p>In its opening comments, Bear Valley asserted that it was entitled to special compliance treatment pursuant to § 399.17. TURN was the sole party to argue that Bear Valley Electric System fails the statutory test under § 399.17 because it does not serve any retail customers located outside of California and is located within the California ISO balancing area authority.</p> <p><u>Reply Comments of TURN on the Administrative Law Judge’s Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements on the RPS Program, February 21, 2012, pages 8-9.</u></p>	<p><u>D.12-06-038</u></p> <p>The Decision agrees with TURN and declines to find that Bear Valley is eligible under § 399.17. Consistent with TURN’s arguments, the Decision explains “because it is interconnected to CAISO, BVES is not subject to these issues and does not need any adaptation of the excess procurement counting rules.” (page 72, footnote 93.)</p>	<p>Correct</p>
<p>14. COMPLIANCE / REQUESTS FOR WAIVER OF PORTFOLIO COTENT REQUIREMENTS</p> <p>TURN urged the Commission to authorize retail sellers to request either an enforcement waiver of the overall procurement obligations or a reduction to the portfolio content requirements after the conclusion of a compliance period. TURN argued that both opportunities should occur at the end of a compliance period and serve as the basis for a waiver in the event that the Commission concludes that overall compliance (including failure to satisfy</p>	<p><u>D.12-06-038</u></p> <p>The Decision agreed with TURN that any request for a waiver of enforcement of procurement quantity requirements should be made after the close of the compliance period for which the waiver is requested. The Commission found that “the fair and efficient administration of the RPS program would be compromised if retail sellers were allowed to make waiver requests at their discretion.” (pages 80-81.) The Decision further agreed with TURN that the same process should be applied to any request for a reduction in the portfolio balance requirement.</p>	<p>Correct</p> <p>Correct</p>

<p>the product category limitations) was not possible due to factors beyond the control of the retail seller.</p> <p>TURN opposed proposals by several parties (SCE, PG&E and MEA) to allow a retail seller to submit a waiver request at any time during the compliance period. TURN explained that these proposals would result in advance requests from practically every retail seller, would lead to regulatory uncertainty and would consume substantial amounts of Commission and intervenor resources.</p> <p><u>Opening Comments of TURN on the Administrative Law Judge's Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements on the RPS Program, February 10, 2012, pages 3-5.</u></p> <p><u>Reply Comments of TURN on the Administrative Law Judge's Ruling Requesting Supplemental Comments on Reporting and Compliance Requirements on the RPS Program, February 21, 2012, pages 4-6.</u></p>	<p>(page 83.)</p>	
<p>15. FEED IN TARIFF PRICING / TECHNOLOGY SPECIFIC PRICING</p> <p>TURN provided policy analysis against technology-specific pricing and statutory analysis showing that technology-specific pricing was inconsistent with the language and intent of § 399.20.</p> <p><u>TURN/CUE Joint Opening Comments, July 21, 2011, Sec. II, p. 4-6.</u></p>	<p><u>D.12-05-035, Sec. 4.5, 5.3 and 12.4.</u></p> <p>The Commission agreed with TURN that "the plan language of § 399.20 neither directs nor suggests that technology-specific costs be included in a FiT program price methodology." (page 34.)</p> <p>The Commission also agreed that technology-specific pricing is not desirable as a matter of policy and would raise ratepayer costs. (pages 33-35.)</p>	<p>Correct</p> <p>Correct</p>

<p><u>TURN Reply Comments, Aug. 26, 2011, Sec. III.</u></p> <p><u>TURN Reply Comments on Staff Proposal, November 14, 2011, Sec. 1.1, p. 4-5.</u></p>		
<p>16. FEED IN TARIFF PRICING / ENVIRONMENTAL ADDERS</p> <p>TURN provided analysis showing that the Market Price Referent already includes all relevant environmental costs, and that various other “environmental adders” do not reflect costs avoidable by ratepayers.</p> <p><u>TURN Opening Brief, March 7, 2011, p. 2-3.</u></p> <p><u>TURN Reply Brief, March 22, 2011, Sec. 2.2.</u></p>	<p><u>D.12-05-035, Sec. 4.4, 5.2, 6.7</u></p> <p>The Commission agreed that such adders are inconsistent with utility avoided costs since they are either already included in market prices or do not reflect costs avoidable by ratepayers. (pages 32-3.)</p>	<p>Correct</p>
<p>17. FEED IN TARIFF PRICING / LOCATIONAL ADDER</p> <p>Many parties promoted the use of a locational adder to the FiT price, and the Staff Proposal proposed using a locational adder for projects in “hot zones.”</p> <p>TURN provided technical analyses showing that such adders were unsubstantiated by the factual record and there was no assurance of actual avoided ratepayer costs. TURN provided analyses based on CSI impact evaluation results showing that any locational benefits on residential circuits may be small due to the noncoincidence of solar output and circuit peak, and that a general adder</p>	<p><u>D.12-05-035, Sec. 4.4 and 5.6.</u></p> <p>The Commission rejected the use of any locational adder due to distribution or transmission benefits.</p> <p>The Commission agreed that a locational adder is “inconsistent with existing law” and that “additional scrutiny is needed before the Commission adopts a location adder.” (page 38.)</p>	<p>Correct</p>

<p>violated Commission policies concerning the locational benefits of DG.</p> <p><u>TURN Reply Brief, R.08-08-009, March 22, 2011, Sec. 3.2.</u></p> <p><u>TURN Reply Comments, Aug. 26, 2011, Sec. II.</u></p> <p><u>TURN Opening Comments on Staff Proposal, Nov. 2, 2011, Sec. 1.4.</u></p> <p><u>TURN Reply Comments on Staff Proposal, November 14, 2011, Sec. 2, p. 6-11.</u></p>		
<p>18. FEED IN TARIFF PRICING / TRANSMISSION LOCATIONAL ADDER</p> <p>TURN strongly opposed the staff proposal to provide an avoided transmission cost adder based on RAM contracts as entirely unconnected to avoidable ratepayer costs.</p> <p><u>TURN Opening Comments on Staff Proposal, Nov. 2, 2011, Sec. 1.3.</u></p> <p><u>TURN Reply Comments on Staff Proposal, November 14, 2011, Sec. 3, p. 11-12.</u></p>	<p><u>D.12-05-035, Sec. 5.6</u></p> <p>The Commission agreed that “the record does not support a determination that the transmission costs for particular RAM contracts constitute the avoided transmission costs for renewable FiT generators under the law.” (page 3.)</p>	<p>FiT Price – Locational Adder</p> <p>Correct</p>
<p>19. FEED IN TARIFF ELIGIBILITY / PROJECT SIZE AND DAISY CHAINING</p> <p>TURN was the principal party to raise concerns regarding daisy chaining of projects to evade size eligibility rules.</p> <p><u>TURN/CUE Opening Comments, July 21, 2011, Sec. IV, p. 7-8.</u></p> <p><u>TURN Opening Comments on Staff Proposal, Nov. 2, 2011, Sec. 3, p. 8-9.</u></p>	<p><u>D.12-05-035, Sec. 8</u></p> <p>The Commission adopted TURN’s proposal for a “seller representation” provision in the standard FiT contract. (page 66.)</p>	<p>Correct</p>

<p>20. FEED IN TARIFF POLICY / PROGRAM OVERLAP</p> <p>TURN recommended against adopting eligibility provisions that allow generators to bid into more than one program.</p> <p><u>TURN Reply Brief, March 22, 2011, Sec. 7, p. 20.</u></p>	<p><u>D.12-05-035, Sec. 9.</u></p> <p>The Commission agreed with TURN's concerns about gaming and modified the terms of the RAM program and adopted the proposal by TURN and SCE to amend the size eligibility for the RAM program to prevent overlap. (page 68.)</p>	<p>Correct</p>
<p>21. FEED IN TARIFF POLICY / PROGRAM CAP</p> <p>TURN argued against recommendations to increase the cap beyond 750 MW as a matter of statutory interpretation based on the plain language of § 399.20(f) and the characteristics of a must-take contract.</p> <p><u>TURN Reply Comments on Staff Proposal, November 14, 2011, Sec. 4.1 and 4.2, p. 12-14.</u></p>	<p><u>D.12-05-035, Sec. 12.</u></p> <p>The Commission agreed with TURN's legal analysis that "the Legislature created a specific program under § 399.20 limited to 750 MW and this program is, notably, a must-take obligation by utilities and the renewable generation procured under this program has cost implications for ratepayers." (page 75.)</p>	<p>Correct</p>
<p>22. FEED IN TARIFF POLICY / INCENTIVE REFUND</p> <p>TURN proposed a tiered refund system tied to time of operation, based on the principle that less repayment necessary with longer operation period.</p> <p><u>TURN Opening Brief, March 7, 2011, p. 7-9.</u></p> <p><u>TURN/CUE Opening Comments, July 21, 2011, Sec. V.</u></p> <p><u>TURN Comments on PD, April 9, 2012, p. 5-6.</u></p>	<p><u>D.12-05-035, Sec. 21</u></p> <p>The Commission adopted PG&E's simplified proposal that defers eligibility for any project that received incentives for a period of ten years. (page 101)</p> <p>The Commission specifically adopted TURN's proposed modification to the original PD to require a project to be online "and operational" for at least ten years. (Compare PD and Final Decision, Sec. 21.)</p>	<p>Correct</p> <p>Correct</p>

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct
c. If so, provide name of other parties: Coalition of California Utility Employees, The Union of Concerned Scientists, The Green Power Institute, EnXco, First Solar, Solar Alliance, Large-Scale Solar Association.		Correct
d. Claimant's description of how it coordinated with DRA and other parties to avoid duplication or how claimant's participation supplemented, complemented, or contributed to that of another party: Due to the complexity of the issues presented by this rulemaking, TURN worked closely with a broad group of intervenors and the utilities to develop a matrix of common issues at the outset of the proceeding. This matrix was the result of several meetings and extensive coordination prior to the filing of comments. The matrix highlighted areas of consensus and disagreement. Moreover, it provided a template for discussion over the portfolio content categories. The matrix was attached to a May 31 st joint filing by CUE, DRA, enXco, First Solar, Iberdrola, IEP, LSA, NextEra, PG&E, SDG&E, SCE, TURN, and UCS (see D.11-12-052, footnote 5). This effort resulted in substantial savings of time and effort for all parties. TURN took great pains to avoid duplication with other like-minded intervenors by avoiding devoting time to issues that were comprehensively addressed by other intervenors. Over the course of the proceeding, TURN coordinated extensively with the Coalition of California Utility Employees and prepared several joint filings. TURN also coordinated with the Union of Concerned Scientists on the development of joint criteria relating to "firmed and shaped" renewable resources. TURN did not coordinate on joint filings with DRA because there was significant disagreement between these two intervenors on a number of key implementation issues. Where TURN and DRA agreed, there was minimal overlap and distinct showings made by both parties. Because this case involved so many parties and filing deadlines were often very compressed (with turnaround times of 1-2 weeks between opening and reply filings), it was extremely difficult to engage in extensive coordination. Even with these constraints, TURN did everything possible to avoid duplicating any efforts made by those parties and to make a unique contribution on the issues it addressed.		Verified

C. Additional Comments on Part II**(use line reference # or letter as appropriate):**

#	Claimant	CPUC	Comment
1	TURN	OK	TURN includes in this request some hours related to the implementation of the SB 32 Feed-in Tariff that were originally incurred during R.08-08-009. When the Commission initiated the current proceeding, it indicated that this OIR "is a continuation of R.08-08-009" and explained that the new docket "is substantially similar to the continuation of a phased proceeding." (OIR, page 20.) The record from R.08-08-009 was transferred to R.11-05-005 and used, in part, as the basis for decisions covered by this request for compensation. TURN submits that it is fully reasonable to include these hours (coded as "R08-08-009/FIT") in this request. If the Commission seeks additional information on the relevance of these hours to this request, TURN would be happy to augment the record as needed.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**(to be completed by Claimant except where indicated)****A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p>a. Claimant's explanation of how its participation bore a reasonable relationship with benefits realized through its participation. (include references to record, where appropriate)</p> <p>As demonstrated in the substantial contribution section, TURN prevailed on a wide range and number of issues in four separate decisions. Since the rulemaking did not address specific requests for cost recovery by Investor Owned Utilities, none of the decisions identified in this request include authorization to recover any particular revenue requirements. Therefore, it is not possible to calculate a precise amount of ratepayer savings that will be realized through TURN's involvement.</p> <p>Meeting the California RPS program targets requires billions of dollars of power purchase commitments by the IOUs. TURN's involvement was focused on ensuring that these commitments provide the highest value to ratepayers and the state of California. TURN also focused on ensuring that the utilities rely upon the least expensive methods of procurement for purposes of implementing the Feed-in Tariffs (by rejecting pricing adders to reflect location or supposed environmental benefits). Given the magnitude of costs at stake under the RPS and FIT programs, the benefits produced by TURN's substantial contributions far exceed (by orders of magnitude) the small cost of TURN's participation in the proceeding. TURN's claim should therefore be found to be reasonable.</p>	<p>CPUC Verified</p> <p>Verified</p>
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<p>Product Definitions – 71 hours – 28% of total</p> <p>Includes work on the portfolio content category definitions and limitations established in D.11-12-052.</p> <p>Feed-in Tariff – 91.25 hours – 36% of total</p> <p>Includes work on the SB 32 Feed-in Tariff program mechanism that was adopted in D.12-05-035. This category also includes 21.25 hours devoted to the same issues in R.08-08-009. Those issues, and the record from R.08-08-009, were folded into R.11-05-005 and resolved in D.12-05-035.</p> <p>Compliance – 49.25 hours – 19% of total</p> <p>Includes work on the RPS program compliance rules adopted in D12-06-038.</p> <p>Compensation – 14.50 hours</p> <p>Time spent on the notice of intent to claim compensation and the preparation of this compensation request. This number of hours is warranted due to the large number of substantial contributions documented in this request.</p> <p>-----</p> <p>TURN attorneys used “%” to describe time devoted to a mix of issues with 1/3 of the hours allocated to Targets and 2/3 of the issues allocated to compliance. These hours have been incorporated to the totals listed above.</p>	
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B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Freedman	2011	136.75	\$350	D.12-07-019	\$47,862.50			\$47,862.50
Matthew Freedman	2012	53.5	\$350	D.12-07-019	\$18,725.00	53.5	\$358	\$19,153.00
Marcel Hawiger	2011	55.5	\$350	D.11-09-037	\$19,425.00	55.5	\$350	\$19,425.00
Marcel Hawiger	2012	9	\$350	D.11-09-037	\$3,150.00	9	\$358	\$3,222.00
	Subtotal:				\$89,162.50	Subtotal:		\$89,662.50

PROPOSED DECISION

OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Person 1]								
[Person 2]								
<i>Subtotal:</i>						<i>Subtotal:</i>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Freedman	2011	0.5	\$175	D.12-07-019 (@50%)	\$87.50			\$ 87.50
Matthew Freedman	2012	14	\$175	D.12-07-019 (@50%)	\$2,450	14	\$179	\$2,506.00
<i>Subtotal:</i>					\$2,537.50	<i>Subtotal:</i>		\$2,593.50
COSTS								
#	Item	Detail	Amount	Amount				
1	Photocopies	Copies for filings and other proceeding documents	\$213.20					
2	Postage	Mailing costs for pleadings	\$116.00					
<i>Subtotal:</i>			\$329.20	<i>Subtotal:</i>		\$329.20		
TOTAL REQUEST \$:			\$92,029.20	TOTAL AWARD \$:		\$92,585.20		

When entering items, type over bracketed text; add additional rows as necessary.

*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.

**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.

We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

**C. Attachments or Comments Documenting Specific Claim
(not attached to final Decision):**

Attachment or Comment #	Description/Comment
1	Certificate of Service - Filed electronically as a separate document pursuant to Rule 1.13(b)(iii); Served electronically as a separate document pursuant to Rule 1.10(c)
2	Hours by Attorney and Consultant

3	Itemization of Expenses
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D. CPUC Disallowances, Adjustments, and Comments:

#	Reason
1.	TURN includes in the request 21.25 hours originally incurred by Marcel Hawiger during R.08-08-009 (coded as "R08-08-009/FIT"). The hours may be included in this request and are compensated under rates described in Decision D-12-05-013.
2.	Resolution ALJ-281 allows for a Cost-of-Living Adjustment to hourly rates for intervenor work performed in 2012. In this proceeding, TURN is entitled to have 62.5 hours of work adjusted to \$358 per hour and 14 hours of claim preparation adjusted to \$179 per hour. The payment for 2012 work and preparation, after adjustment for cost of living applicable to 2012 rates, is increased from \$24,325 to \$24,881. The total claim is increased from \$92,029.20 to \$92,585.20.

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (see § 1804(c))

A. Opposition: Did any party oppose the Claim?	No.
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If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes
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If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant made substantial contributions to Decisions 11-12-020, 11-12-052, 12-05-035 and 12-06-038.

2. The requested hourly rates for Claimant's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.

4. A Cost of Living adjustment of 2.2% is appropriately applied to charges incurred in 2012, pursuant to Resolution ALJ-281.

5. The total of reasonable contribution is \$ 92,585.20.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$ 92,585.20.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric, Southern California Edison Company, and San Diego Gas & Electric Company shall pay Claimant their respective shares of the award, based on their California-jurisdictional revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 10, 2012, the 75th day after the filing of Claimant's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
This decision is effective today.

Dated _____, at Carmel-by-the-Sea, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1112020, D1112052, D1205035, D1206038	Modifies Decision? No
Contribution Decision(s):		
Proceeding(s):	R1105005	
Author:	Anne E. Simon, Regina DeAngelis	
Payer(s):	Pacific Gas & Electric, Southern California Edison Company, and San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	8-27-12	\$92,029.20	\$92,585.20		2012 hours adjusted to include a 2.2% Cost-of-Living-Adjustment

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Freedman	Attorney	The Utility Reform Network	\$350	2011	\$350
Matthew	Freedman	Attorney	The Utility Reform Network	\$350	2012	\$358
Marcel	Hawiger	Attorney	The Utility Reform Network	\$350	2011	\$350
Marcel	Hawiger	Attorney	The Utility Reform Network	\$350	2012	\$358

(END OF APPENDIX)